



CANNON BUILDING
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STATE OF DELAWARE
BOARD OF MASSAGE AND BODYWORK

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PUBLIC MEETING MINUTES:	Board of Massage and Bodywork
MEETING DATE AND TIME:	Thursday, February 16, 2017 at 1:30 p.m.
PLACE:	861 Silver Lake Boulevard, Dover, Delaware Conference Room B , second floor Cannon Building
MINUTES APPROVED:	APPROVED March 16, 2017

MEMBERS PRESENT

Jermaine Cannon, Professional Member, President
Danielle DiFonzo, Professional Member, Vice President
Kathy Sherwin, Public Member, Secretary
Sandra Jachimowski, Professional Member
Frank Beebe, Public Member
Rachel Dunning, Public Member
Holly Overmyer, Professional Member

MEMBERS ABSENT

DIVISION STAFF/DEPUTY ATTORNEY GENERAL/COURT REPORTER

Eileen Kelly, Deputy Attorney General
Melanie Alexander, Administrative Specialist II
David Mangler, Director

OTHERS PRESENT

Sharon Gamble LMT
Aimee Moulder LMT
Paula Casey LMT
Nancy Alteri LMT

CALL TO ORDER

Mr. Cannon called the meeting to order at 1:30 pm.

REVIEW OF MINUTES

The Board reviewed the minutes from the January 19, 2017 meeting. A motion was made by Mr. Beebe, seconded by Ms. Dunning, to approve the minutes as presented. The motion carried unanimously.

UNFINISHED BUSINESS

Rules and Regulation Revision Hearing

The Deputy Attorney General, Ms. Kelly called the hearing to order at 2:08 p.m. The Board members introduced themselves for the record. Ms. Kelly stated that during the November 2016 meeting it was decided that changes to the regulations needed to be made consisting of removing crimes from the substantially related list, as well as various updates to clarify and clean up the rules and regulations. The changes were published in the registrar of regulations, and today's hearing was noticed there as well as in 2 newspapers for general circulation. Ms. Davis marked as exhibit 1 the affidavit of publication from the News Journal and exhibit 2 the affidavit of publication from the Delaware State News. She asked if there was anyone that wished to give public comment, Ms. Casey had a clarification question but no comments, seeing that there was none, Ms. Davis concluded the hearing, pursuant to **29 Del.C. § 10118(a)** the written public comment period will remain open for an additional 15 days. At the Commission meeting in August they will deliberate on any written comments that may be received. The hearing went off the record at 14:15 p.m.

Regulation Updates for House Bill 35

Ms. Kelly provided the Board with message establishment regulations for San Carlos, CA along with her suggested regulations for licensing of Massage Establishments. Ms. Alexander provided the Board with documents she received from FSMTB about the 10 states that have some sort of regulations regarding Massage Establishment licensing, along with correspondence about HB35 since the January meeting. The Board noted that there was a large amount of information to go over and it was decided that they would take the documents with them to make any notes to discuss at the next meeting, and Ms. Alexander stated that she would provide copies of the Cosmetology & Barbering Establishment application and Professional in Charge form also as an example or possible guide to assist the Board when drafting the new regulations.

Bryan Thornton 2 week extension to Comply with Disciplinary Order

A motion was made by Ms. Overmyer, seconded by Ms. Dunning, to accept the documents submitted by Bryan Thornton and 3 licensed massage therapists, verifying that he complied with the disciplinary order signed on November 17, 2016. The motion carried unanimously.

NEW BUSINESS

Ratification of Massage Technician Certifications

None

Ratification of License Massage Therapists

None

Continuing Education

A motion was made by Ms. Jachimowski, seconded by Ms. Dunning, to approve the Continuing Education requests submitted as stated below. The motion carried unanimously.

1. Inspirit Studios, Anita Brown
 - a. Reiki Level I- 6 hrs- Elective- **Approved**
 - b. Reiki Level II- 6 hrs- Elective- **Approved**
2. Marie Batman- Batman Massage
 - a. Massage Techniques for Lower Back Pain- 4 hrs- Core- **Approved**

Application(s) for DAG Review

None

Review & Consideration of Hearing Officer Recommendations

None

Review & Discussion of Consent Agreements

None

Review & Signing of Final Orders

Mr. Cannon signed the final order for Gilda Bynum, case # 20-09-16.

Miscellaneous Review & Discussion

Ms. Alexander advised the Board on a memo she received from Mr. Mangler stating that all applications for professions that require a criminal background check will have the following questions removed from the application.

- Have you ever been convicted of or entered a plea of *nolo contendere* (no contest) to any felony, misdemeanor or any other criminal offense in any jurisdiction, including any offense for which you have received a pardon?
- Are any criminal charges against you pending in any jurisdiction?

Ms. Alexander provided the Board with a notification from FSMTB stating that they have initiated litigation to protect the integrity of MBLEx, against Benevolence Exam Tutoring Center located in Flushing, New York, Chang Liu, 10 identified individuals, and other yet unidentified “John Doe” defendants, alleging copyright infringement, trade secret misappropriation, breach of contract and other claims arising out of the theft and sale of questions from the FSMTB Massage & Bodywork Licensing Examination (MBLEx).

Ms. Alexander also provided the board with a sign-up sheet for anyone that was interested in having access to the training with FSMTB for the Council on Licensure Enforcement & Regulation’s (CLEAR’s) online program.

CORRESPONDENCE

In regards to the email submitted by Ed Jerzyk, the Board advised that the reciprocity statute is shown in section § 5310 of the statute, and that THC infused oils would be beyond the scope of practice for a licensed massage therapist or a certified massage technician.

OTHER BUSINESS (for discussion only)

Division Director David Mangler asked Board members if they had any questions about HB 35 pertaining to licensure of massage establishments. Members of the public in attendance addressed Mr. Mangler with questions first.

Paula Casey asked why LMTs weren’t told about the bill and wasn’t the bill addressed to law enforcement issues? Mr. Mangler explained that HB 35 isn’t a Division or Board bill and the Board had very little notice. Pursuant to HB 35, DPR inspectors will be authorized to go into establishments to conduct inspections. Law enforcement would not be able to do that because they would need to meet legal standards before entering the establishment to perform searches.

Nancy Alteri stated that massage practitioners are health care professionals and why isn’t HB 35 covered by Adult Entertainment. She also expressed concern regarding the privacy of her clients. She felt that the bill is punishing everyone for the actions of a few and demeaning the whole profession.

There was discussion about massage practitioners who practice in their homes. Mr. Mangler explained that this scenario would be exempt from HB 35's provisions. Inspectors will be directing inspections to brick and mortar establishments. There was further discussion about exemptions set forth in HB 35.

There was also discussion about the expense of another license. Mr. Mangler explained that he was working to ensure that legitimate practitioners would not be unfairly burdened. The members of the public were advised that the Board would be working on regulations to address some of their concerns. Members of the public stated a desire to remain updated on progress of the bill and means of doing that were discussed.

Ms. Alexander stated she would provide a link to anyone who was interested in tracking the progress of HB 35.

PUBLIC COMMENT

(See other business.)


NEXT SCHEDULED MEETING

The next meeting is scheduled for March 16, 2017 at 1:30 p.m.

ADJOURNMENT

There being no further business before the Board, a motion was made by Mr. Beebe, seconded by Ms. Sherwin to adjourn the meeting. The motion carried unanimously. The meeting went off record and adjourned at 3:24 p.m.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Melanie Alexander".

Melanie Alexander
Administrative Specialist II